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JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1969.

No. ~~1447~~ 80

ZENITH RADIO CORPORATION, A CORPORATION,
Petitioner,

vs.

HAZELTINE RESEARCH, INC., A CORPORATION,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

MOTION TO ADVANCE ORAL ARGUMENT.

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THE GUNTHORP-WARREN PRINTING COMPANY, CHICAGO

IN THE

Supreme Court of the United States

OCTOBER TERM, 1969.

No. 1117

ZENITH RADIO CORPORATION, A CORPORATION,
Petitioner,

vs.

HAZELTINE RESEARCH, INC., A CORPORATION,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

MOTION TO ADVANCE ORAL ARGUMENT.

Petitioner Zenith Radio Corporation, through its counsel, respectfully moves the Court for an order advancing the oral argument in the above entitled cause so that it may be heard during the 1969 Term. The petition for writ of certiorari was granted on March 16, 1970. Petitioner is advised that in all cases in which certiorari was granted subsequent to February 24, 1970, the cause is automatically placed on the calendar for oral argument next term unless otherwise ordered by the Court. As grounds for this motion petitioner states:

1. This cause is pending on certiorari the second time as a result of the October 27, 1969 decision rendered by the

Court of Appeals for the Seventh Circuit, following remand by this Court. When last reviewed, the Court of Appeals had reversed the $19,042,173 treble damage judgment against respondent Hazeltine Research, Inc. on the ground that petitioner had failed to prove that it had been damaged in its business by reason of the CRPL patent pool (388 F. 2d 25). This Court found that determination to be clearly in error and reversed the decision below. It remanded the case on related misuse and injunctive relief issues for further proceedings consistent with its opinion (395 U. S. 100). Despite this determination, the Court of Appeals has again set aside the judgment against respondent and has remanded the case to the District Court for a new trial of the Canadian damage issues. In our view, the decision of the court below is clearly contrary to the opinion and mandate of this Court.

2. Petitioner believes that the instant case can be fully and adequately briefed this term. The Court has previously ordered that the record on prior review in No. 49, October Term, 1968 stand as part of the record in this cause, and the Clerk advises that the previously printed nine volume appendix is available for use on this review. The Court is already familiar with the prior record and the further issues presented by the Court of Appeals recent decision following remand are relatively narrow in scope as indicated by the order placing this cause on the summary calendar. The parties have agreed upon the additional record to be printed and no delay in printing is anticipated. Petitioner intends to file the additional printed appendix covering proceedings following remand together with its brief on the merits no later than April 15, 1970. On this schedule respondent's answering brief would be due no later than May 15th, thereby permitting oral argument prior to the end of the term.

3. In its prior opinion this Court recognized the deterrent effect of a treble damage award against combinations designed to exclude an American firm from a foreign market. Such deterrent effect in the Canadian market has been greatly impaired by the last opinion of the Court of Appeals which has in effect reversed the opinion of this Court. Until the Court of Appeals decision is set aside and the Canadian judgment reinstated this litigation will have little effect on HRI's co-conspirators in Canada and Zenith's position in the Canadian market will remain uncertain and its business subject to grave risks. This litigation has been pending for almost eleven years and we most respectfully suggest that it is in the interest of justice and equity that it be concluded at the earliest date commensurate with the other duties and obligations of this Honorable Court.

WHEREFORE, petitioner prays that the Court order that the oral argument in this cause be advanced to a convenient session of arguments scheduled prior to the end of the term.

Respectfully submitted,

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